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ATTORNEY DOCKET NO. 1906-3-Polestar

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/611,548 Confirmation No.: 6763
Applicant: Douglas G. Lowenstein, et al.
Title: IFINANCING OF TENANT IMPROVEMENTS
Filed: July 7, 2000 Art Unit: 3695
Atty. Docket: 1906-3-Polestar Examiner: Charles Kyle

CONDITIONAL NOTICE OF APPEAL

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Conditional on a final determination by the PTO that the Action of March 14, 2012 was not prematurely made final and was complete, and on exhaustion of any petitions directed to premature final rejection, Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner dated March 14, 2012.

Applicant notes that the issue of whether the March 14, 2012 Action was prematurely made final is an issue that has been waived by the PTO and no longer up for decision, as discussed in the accompanying "Request for Withdrawal of Premature Finality" filed herewith.

Applicant notes that MPEP Chapter 700 specifies several classes of paper that may not be "Conditional;" a Notice of Appeal conditioned on premature final rejection is not one of them.

The fee for this Notice of Appeal is \$310.00 for a small entity. A check for \$945.00 including \$310.00 for a Notice of Appeal is enclosed.

A previous Notice of Appeal was filed on April 3, 2009, with a fee of \$270.00.

Applicant should not have had to pay that fee. In the event that the issue of final rejection is finally decided against Applicant, the Commissioner for Patents should take the incremental

Adjustment date: 09/19/2012 CCHAUI
04/07/2009 WABDELRI 00000006 09611548
01 FC:2401 -270.00 OP

09/19/2012 CCHAUI 00000004 09611548
01 FC:2401 310.00 OP

NOTICE OF APPEAL

This paper dated September 14, 2012

I certify that this correspondence, along with any documents referred to therein, is being deposited with the United States Postal Service on September 14, 2012 as First Class Mail in an envelope with sufficient postage addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Ref: 09/19/2012 CCHAUI 0008455800
Name/Number: 09611548
DAH: 503219
FC: 9204
\$270.00 CR

amount from the amount of the enclosed check. If the previous fee of \$270.00 paid on April 3, 2009 is not applied to this Notice of Appeal, the fee should be paid by the enclosed check. The Commissioner for Patents is hereby authorized to charge any additional fee for this Notice of Appeal along with any other fees which may be required, or credit any overpayment to Deposit Account No. 50-3219, Order No. 1906-3-Polestar.

As noted in the accompanying Response and Request for Reconsideration, it is believed that no extension of time is required since the Office action was not complete. In the event that the PTO determines to waive the provisions of MPEP § 710.06, Applicant requests an express statement to that effect. Applicant files concurrently a Petition for an extension of Time and fee conditional on that issue as stated in the Petition. Thus, Applicant petitions for such extension of time as may be required. Kindly charge any additional fee that may be required, or credit any overpayment to Deposit Account No. 50-3219, Order No. 1906-3-Polestar.

Respectfully submitted,
TI FUNDING GROUP, L.L.C.

Dated: September 14, 2012

By: 
Donna L. Angotti
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